

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL ROBERT BERG,

Plaintiff,

-against-

STATE OF NEW YORK, *et al.*,

Defendants.

21-CV-3293 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is currently incarcerated in Green Haven Correctional Facility, is proceeding *pro se* and *in forma pauperis*. Plaintiff filed a 117-page complaint asserting claims under 42 U.S.C. § 1983, alleging violations of his constitutional rights arising from events occurring from 2010 until the present. By order dated June 14, 2021, the Court severed and transferred the claims arising outside this District, and directed Plaintiff to file an amended complaint within sixty days to address deficiencies in his original complaint in connection with his claims arising in this District.

Plaintiff submitted a letter to the Court on July 29, 2021, stating that the Court “woefully misunderstood the intent of [his] original filing,” which took him 18 months to draft, and seeking to hold this matter in abeyance to allow him to do the additional research necessary to comply with the Court’s June 14, 2021 order. (ECF 4.) Plaintiff further claims that the number of exhibits will “probably double” the “overall volume” of his pleading. In the alternative, Plaintiff asks for permission to “withdraw[]” the complaint, “reserving his right to re-visit the actual issues at a later date.” (*Id.*)

The motion to hold the matter in abeyance is denied. But the Court grants Plaintiff an extension of time to comply with the June 14, 2021 order. Plaintiff need not prove his

allegations, provide documentary evidence, or cite case law. Accordingly, supporting documents are not necessary. What the Court requires is a clear and concise account of the facts giving rise to this action and how those facts support Plaintiff's claim that Defendants violated his federally protected rights.

If Plaintiff wishes to withdraw this matter, he should file a motion of voluntary dismissal under Federal Rule of Civil Procedure 41(a).¹

CONCLUSION

The motion to hold this matter in abeyance is denied. The Court grants Plaintiff an extension of time to file an amended complaint. Plaintiff is directed to file an amended complaint within sixty of the date of this order. If Plaintiff fails to comply within the time allowed, the complaint will be dismissed for failure to state a claim upon which relief may be granted. 28 U.S.C. § 1915(e)(2)(B)(ii).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: July 30, 2021
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge

¹ Plaintiff is alerted that any such dismissal would be without prejudice to renewing his claims, but only if he renews his claims within the applicable statute of limitations. *See* Fed. R. Civ. P. 41(a)(1)(B).